Remarks Regarding Amendments

Claim 1 has been amended to include elements of claims 6-8. Support for the terminal segment engagement to minimize axial expansion can be found in the specification at paragraph 8 wherein it notes that in an especially preferred embodiment of the device, in the terminal region of the stent, unlike the middle segment, there are wall segments which are directly connected to one another without spring elements, so that they cannot expand or can only expand to a limited extent in the axial direction of the tube. In this manner, the terminal region of the stent, despite being flexible, is provided with the strength required for the required anchoring in the moving flexible blood vessel.

As noted in paragraph 4, it is an object to provide a stent not only guarantees positional stability, but can also be used in the region surrounding the heart, in particular, as well as in proximity to moved and/or substantially lateral bifurcations without the risk of obstructing the flow of blood to the bifurcation. Therefor the device as now claimed, provides a middle portion having segments connected by a spring element for flexibility needed in the highly flexible aortic arc, yet having ends or terminal regions with the segments connected to yield sufficient rigidity to maintain the mount of the device in the artery.

Consequently no new matter has been added to the application and claim 1 now reflects elements of the canceled claims and of structure more clearly defining the preferred embodiments of the invention to yield the structure and functions of the object of the invention.

SECTION 102 OBJECTIONS

The Examiner as objected to the claims pursuant to Section 102 per Duerig and Boatman.

Claim 1, has been amended to include the elements of claims 7 -9 to include a curved anchoring element (22) bent outward in a curvature toward the curved tip (24). This curvature increases in the direction of said curved tip (24) . Also included is the curved tip (24) having a radiopaque region. Additionally, and as noted, in a very preferred mode of the device, the annular wall segment (11) in at the end of the stent, or at a terminal region of said stent which is adjacent to one end there is a direct connection an adjacent annular wall segment at respective intersections of the wall elements (14,15). This connection between each intersection of wall elements eliminates expansion in the axial direction thereby providing a sturdy dimensional characteristic to the stent with the blood vessel in which it engages. This configuration thereby provides annular segments in the middle of the device in a flexible engagement and those at the terminal ends having substantially rigid engagements to provide both flexibility and rigidity to the device in the areas required for maximum function.

As the court said in Richardson v. Suzuki Motor Co., 9 USPQ2d 1913 at 1920 (Fed. Cir. 1989):

> "Rejection for anticipation or lack of novelty requires as the first step in the inquiry, that *all* the elements of the claimed invention be described in a single reference."

The cited prior art, lacks the direct connection of adjacent terminal segments to yield the rigidity and minimization of flex in the axial direction at the ends of the stent, and concurrent spring connection of centrally located segments to provide flexibility along with the increasing curve of the anchoring elements, therefor lacks key elements of the claimed device and the objection under Section 102 is respectfully traversed.

SECTION 103

The citation of Duerig, and Duerig in view of Baily or Klien.

As noted, the amended claims more clearly define the subject matter of the invention and contain elements not taught or suggested in Duerig. Consequently any combination with Dureig such as with Baily or Klien would also lack elements of the claimed device. As such, lacking the elements claimed in applicants invention and neither teaching or suggesting such, the objections under section 103 are respectfully traversed.

Final Remarks

Applicant's device claims elements providing function, and properly claimed, which are neither taught nor suggested in the cited prior art. Applicant as noted in the specification considers the improvement to be substantial and provide great benefits to the patient in whom such a stent is implanted providing both flexibility as well as a solid mount for the device in the curved and flexible environment of a blood vessel.

With the art somewhat crowded and as noted, applicant still believes the improvement provided to be significant. However, even if the Examiner does not consider Applicant's claimed device a great advance in the art of vascular stents, it has been established that one should not be deprived of patent protection where it can be shown that any genuine improvement has been made, on comparison with other inventions in the art - even if the improvement lacks the appearance of a great advance in the art.

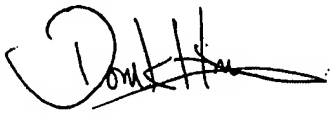
> In re Lange, 128 USPQ 365, the CCPA on page 367 states that:
> "We think that the present application is a distinct improvement of Jezalik and represents an advance in the art not obvious, having patentable novelty. The art is a crowded and comparatively simple on and in such an art, great advances are not to be expected. *However patentability will not be denied to an invention which accomplishes a small, but nevertheless genuine improvement not though of by others.."*

Further, the CCPA in the recent case of re Meng and Driessen, 181 USPQ 94, on page 97, reiterated the principal that even though the invention seems a simple advance over prior art, *after the fact*, simplicity, argues *for*, rather than against patentability.

Considering that Applicant's device has combined elements not taught or suggested in the prior art, and that the device employed in the moving, curved and flexible blood vessels of a patient offer an improvement in the art, and considering that both major and minor improvements in the art argue for patentability, the claims of the patent should now be allowable.

Should the Examiner have any further questions or concerns the Examiner wishes to address, or should the Examiner have suggestions as to language that might more clearly define the invention, the Applicant's attorney would be most receptive to such by telephone.

Respectfully submitted,



Donn K. Harms
Reg No 38,911
Attorney for Applicant
11/16/07

12702 Via Cortina, Ste. 100
Del Mar, CA 9014
Tel: (858) 509-1400